IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

CHAMBER SUMMONS NO.176 OF 2007
IN
EXECUTION APPLICATION NO.558 OF 2006
IN
MISCELLANEOUS PETITION NO.15 OF 2003
IN
PROBATE PETITION NO.316 OF 1982

Shri.Vaikunthrai @ Yogendra Amrutlal Bhatt ...Petitioner

vs.

Shri.Kanaiyalal Amrutlal Bhatt & Another. ...Respondents.

Ms.P.G.Bhatia i/b. B.S.Shetty, for Petitioner.

Mr.M.S.Bhandari i/b. J.R.Trivedi, for Respondent no.1 in support..

CORAM: D.K.DESHMUKH,J.

DATED: 1st March, 2007.

P.C.:-

1. This chamber summons has been taken out for setting aside the warrant of possession. Admittedly, there is no decree passed by any civil Court. The petitioner is trying to execute the order made in testamentary proceedings. In a testamentary proceedings after the probate is made, Court can

issue directions to the executor of the Will for acting pursuant to the Will and the Law. There is no requirement in the Will for the executor to execute any document in favour of the beneficiary. By taking out execution application, a warrant of possession cannot be obtained. The petitioner will have to adopt appropriate remedy for the same. The chamber summons is therefore, granted in terms of prayer clause (a). The chamber summons is disposed of.